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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,828	10/24/2003	Daniel James Dickinson	TE9A	9259

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EXAMINER

RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/692,828	Applicant(s) DICKINSON ET AL.	
	Examiner Ruth C Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement..

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/23/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged.

Information Disclosure Statement

2. The information disclosure statement filed 24 October 2003 has been considered for this Office Action.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Art Unit: 3677

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- Claims 1-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 6,718,599 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because both set of claims are directed to a spring fastener having the same limitations with the exception that the current application is not claiming an optional recess between the free end and the peak.

- Claims 33-46 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 9, 11-14, 18, 22, 26 and 29 of U.S. Patent No. 6,868,588 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because both set of claims are directed to an assembly having the same limitations with the exception that the current application is not claiming a second part and a recess between the free end and the peak.

- Claims 47-60 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 9, 11-14, 18, 22, 26 and 29 of U.S. Patent No. 6,868,588 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because both set of claims are directed to an assembly having the same limitations with the exception that the current application is not claiming a first part and a recess between the free end and the peak.

Art Unit: 3677

- Claims 61-74 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5, 9, 11-14, 18, 22, 26 and 29 of U.S. Patent No. 6,868,588 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because both set of claims are directed to an assembly having the same limitations with the exception that the current application is claiming a vehicle comprising the assembly but the assembly does not have a recess between the free end and the peak.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: both claim a spring fastener having a U-shaped structure formed by a first side joined to a second side. Each side has first barbs and an engagement spring. Each engagement spring has a free end, a peak and an engagement region with a hindrance portion. The hindrance portion comprising a structure selected from ripple, side rib, upward solid bent extension parallel to the peak, knurled region, bent teeth and a combination thereof.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Objections

4. Claims 22-24, 44, 58 and 72 are objected to because of the following informalities:

- The claims recite the limitation "the material from which the spring fastener has a thickness". The phrase --was made from-- should be inserted between "fastener" and "has".
- Claims 44, 58 and 72 recite the limitation "the outside outer barbs" in the second line. There is insufficient antecedent basis for this limitation in the claim.

Correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claim 1, 14, 18, 22, 26, 33, 41-45, 47, 55-59, 61 and 69-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Vassiliou (US 6,691,380 B2).

Art Unit: 3677

A spring fastener (10) comprises a first side (18) and a second side (20) opposite the first side (Figs. 1, 1A, 9-14, 16 and 17). The first side is connected to the second side thereby forming a U-shaped structure having a cavity (16) between the first side and the second side (Figs. 1, 1A, 9-14, 16 and 17). A bottom portion connects the first side and the second side and a top portion (Figs. 1, 1A, 9-14, 16 and 17). The first side comprises first barbs (12) having first front ends (24) and a first engagement spring (29). The first engagement spring connected to the first side in the vicinity of the bottom portion (Figs. 1, 1A, 9-14, 16 and 17). The second side comprises second barbs (14) having second front ends (30) and a second engagement spring (31). The second engagement spring connected to the second side in the vicinity of the bottom portion (Figs. 1, 1A, 9-14, 16 and 17). Each of the first and second engagement springs has a free end in the vicinity of the top portion and also comprises a peak and an engagement region with a hindrance portion (50) between the free end and the peak (Figs. 1, 1A, 9-14, 16 and 17). The hindrance portion comprises one structure selected from ripple, side rib, upward solid bent extension parallel to the peak and the free end, knurled region, bent teeth (50), each having a depth and a combination thereof (Figs. 1, 1A, 9-14, 16 and 17). The hindrance portion provides increased removal force when the fastener is pulled by a rib of a first part engaged to the first and second barbs after the fastener has been inserted into a slot of a second part (Figs. 1, 1A, 9-14, 16 and 17). The slot has a slot width and edges on which edges the engagement region is engaged (Figs. 1, 1A, 9-14, 16 and 17). The increased removal force being due to the hindrance

Art Unit: 3677

portion and wherein the fastener can be extracted when pulled by the rib without damage to said fastener (C. 7, L. 49-54).

The barbs are selected from a group consisting essentially of: first barbs being outer barbs and second barbs being inner barbs where the first barbs are outside outer barbs and the second barbs are inside outer barbs and first barbs being inner barbs and the second barbs being inner barbs (Figs. 1, 1A, 9-14, 16 and 17).

At least one barb is cut from its respective side, is flexible, and is bent at its respective front end (Figs. 1, 1A, 9-14, 16 and 17).

The material from which the spring fastener is made from has a thickness and the front points of the outside outer barbs are at a distance from the second side smaller than the thickness of the material (Figs. 1, 1A, 9-14, 16 and 17).

The engagement region is at least partially wider than the rest of the engagement spring (Figs. 1, 1A, 9-14, 16 and 17).

Regarding claim 33, the same rejection of claim 1 applies to claim 33 that claims an assembly having a first part that comprises a rib and a spring fastener in accordance to claim 1 where the fastener can be extracted when pulled by the rib without damage to the fastener (C. 7, L. 49-54).

For claim 47, the same rejection of claim 1 applies to claim 47 that claims an assembly having a second part with a slot and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (C. 7, L. 49-54).

Art Unit: 3677

Regarding claim 61, the same rejection of claim 1 applies to claim 61 that claims a vehicle comprising an assembly having a first part with a rib and a second part with a slot and a spring fastener in accordance to claim 1 where the fastener can be inserted into the slot and extracted when pulled by the rib without damage to the fastener (C. 7, L. 49-54).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 25, 30, 31, 34, 48 and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vassiliou.

Vassiliou discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claim 1. Vassiliou fails to disclose that the depth of the bent teeth is smaller than 0.2 mm. However, it would have been obvious matter of design choice to provide the bent teeth with a depth smaller than 0.2 mm, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Art Unit: 3677

Vassiliou discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claim 1. Vassiliou fails to disclose that the fastener has a width in the vicinity of the top portion of the fastener which is at least 60 % as wide as the slot width. However, it would have been obvious matter of design choice to provide the fastener with a width in the vicinity of the top portion of the fastener that is at least 60 % as wide as the slot width, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237, (CCPA 1955).

Vassiliou discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claim 1. Vassiliou fails to disclose that the fastener further comprises additional lower barbs pointing inwardly and originating from the vicinity of the bottom portions of the first side and the second side of the fastener. However, the Examiner takes Official Notice that providing additional lower barbs pointing inwardly and originating from the vicinity of the bottom portions of the first side and the second side of the fastener is well known in the art to increase the grip of the rib.

Vassiliou discloses a spring fastener with all the limitations listed above in paragraph 6 for the rejection of claim 1. Vassiliou fails to disclose that each side of the spring fastener has only one upper barb and one lower barb and the lower barb of one side faces the lower barb of the other side and vice versa. However, the Examiner takes Official Notice that providing each side of the spring fastener has only one upper barb and one lower barb and the lower barb of one side faces

Art Unit: 3677

the lower barb of the other side and vice versa is well known in the art to increase the grip of the rib.

Allowable Subject Matter

9. Claims 3-13, 15-17, 19-21, 23, 24, 27-29, 35-40, 46, 49-54, 60, 63-68 and 74 would be allowable if rewritten to overcome the double patenting rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smith et al. (US 6,381,811 B2), Smith et al. (US 6,527,471 B2), Smith et al. (US 6,648,542 B2), Dickenson et al. (US 6,718,599 B2), Smith et al. (US 6,846,125 B2) and Dickenson et al. (US 6,868,588 B2) are cited to show state of the art with respect to spring fasteners having some of the features being claimed by the current application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (571) 272-7070. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (571) 272-7075.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee that the applicant is paying by check **should not be** submitted by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

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(Typed or printed name of person signing this certificate)

(Signature)


If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR

Art Unit: 3677

1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-6640.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
April 18, 2005